UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
	09/992,138	FUNCK ET AL.
Office Action Summary	Examiner	Art Unit	
	Benjamin E. Lanier	2132	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>18 September 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-46</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-46</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>05 January 2006</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
       application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
      Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
      Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   Applicant's amendment filed 18 September 2007 amends claims 1, 22, and 36.

Applicant's amendment has been fully considered and entered.

Response to Arguments

2.   Applicant argues, "The terms 'complete' and 'communication path' are common English

words (e.g., complete – having all necessary parts, Webster's New Collegiate Dictionary; path –

the physical route a telecommunications signal follows from transmitter to receiver, Newton's

Telecom Dictionary). Thus, the phase complete communication path is clear, and simply means a

path (route) of communication extending completely (entirely) from the customer station to the

ACD. The term was inserted into the claim merely to clarify it is the entire path from end to end

that is claimed." This argument is not persuasive because the specification lacks support for any

specific communication paths between the customer station and the ACD that includes **all**

necessary parts that would make up the "complete communication path." The only recitation of

a "communication path" in the entire specification occurs in the last paragraph of page 5, which

suggests:

> Individual packets are routed to their destination IP address contained in the packet's
> header, and may travel over different network paths before arriving at their final
> destination for re-assembly and re-sequencing.

3.   This recitation of the specification fails to show any specific communication path

between the customer station and the ACD, because the specification does not show **all**

necessary parts that would make up the communication path. In contrast, the specification

appears genuinely unconcerned with the path with which packers arrive at their destination IP

address, since the specification suggests that "different network paths" could be used. However,

because no specific communication path is shown in the specification, the requirements of §112

have not been met.

4.   Applicant argues, "Schulze involves two separate communications channels…voice

traffic is transmitted through the communications channel made up of the combined wireless

network 20 and the PSTN 22 to the 911 operator or medical care provider, but data is transmitted

over a different communications channel established thru the network 20 through an

Interworking Function 24 to the Internet 25 for retrieval through the host 30." This argument is

not persuasive because the voice and data traffic of Schulze goes through only one

communications channel, and that is the network 20 (Figure 1, element 20). What Applicant

describes is different paths for voice and data traffic, from the user to the medical care provider.

5.   Applicant is not claiming communication over different paths. The claims only require

communication over the same channel, which is met by Schulze because both the voice and data

traffic in Schulze is transmitted over the cellular channel (Figure 1, element 20). Although the

claims are interpreted in light of the specification, limitations from the specification are not read

into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6.   Applicant argues, "no 'complete communication path from the customer station to the

ACD' as claimed is established in Schulze solely through the cellular network (i.e. in Schulze,

the network 20 alone cannot form a channel which connects the customer and the ACD)." This

argument is not persuasive because nothing in the claims requires the absence of another network

entity in communication path between the customer station and the ACD. Therefore, a complete

communication path is formed between the user (Figure 1, element 14) and the medical care

provider (Figure 1, element 28) over the cellular communications channel (Figure 1, element 20)

using the PSTN (Figure 1, element 22). The fact that the cellular communications channel does

not directly connect the patient and the medical care provider is irrelevant. Although the claims

are interpreted in light of the specification, limitations from the specification are not read into the

claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7.   Applicant argues, "Schultze's [sic] does not concern manually entered customer data as

claimed in claims 1, 22, and 36." Applicant's argument is not persuasive because the data

transmitted by the MVPM is physiological data about the patient wearing the MVPM ([0044] &

[0047]), which meets the limitation of customer data manually entered by the customer because

the entry of physiological data, such as pulse rate ([0049]), requires human effort (i.e. heart

pumping) and can be considered manual.

Claim Rejections - 35 USC § 112

8.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making
> and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
> pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
> contemplated by the inventor of carrying out his invention.

9.   Claims 1, 22-24, 36 are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the written description requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to reasonably convey to one skilled in the

relevant art that the inventor(s), at the time the application was filed, had possession of the

claimed invention. The added material which is not supported by the original disclosure is as

follows: a first communication channel complete communication path from the customer station

to the ACD using a first communication process.

10.   The specification discusses different types of networks that can be used to transmit voice

and data to/from the customer to the ACD, but the specification does not specify the particular

paths that are used over these networks to transmit the voice and data to/from the customer to the

ACD.

11.   Paragraph 22, of the publication 2003/0097339, specifies that "Individual packets are

routed to their destination IP address contained in the packet's header, and may travel over

different network paths before arriving at their final destination for re-assembly and re-

sequencing."

12.   This is the only recitation in the specification with respect to a network transmission path,

and this recitation does not rise to the level of a "complete communication path" as claimed, let

alone a "complete communication path" with respect to both voice and data transmissions.

13.   Claims 22, 36 are similarly rejected for claiming "a complete two-way communication

channel."

14.   Claims 23, 24 are similarly rejected for claiming "a complete communication channel."

15.   Claims 1, 22-24, 36 are rejected under 35 U.S.C. 112, first paragraph, because the

specification, while being enabling for a communication channel between the customer and the

ACD, does not reasonably provide enablement for a complete communication channel/path

between the customer and the ACD. The specification does not enable any person skilled in the

art to which it pertains, or with which it is most nearly connected, to make and use the invention

commensurate in scope with these claims. The specification briefly discussed the different types

of networks that could be used in various embodiments of Applicant's invention, however, the

specification is silent with respect to specific network transmissions paths.

16.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

17.   Claims 1, 22-24, 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

18.   The claims recite, "a first communication channel complete communication path", "a complete two-way communication channel," and "a complete communication channel," which render the claims vague and indefinite because the specification does not clearly define a communications channel/path with respect to how or when it is considered complete as claimed.

19.   For the purposes of examination, the claims will be viewed in light one of the many disclosed embodiments. Specifically, paragraph 36 of the publication 2003/0097339, detail an embodiment where a cellular network is used to transmit voice and data between the customer and the ACD without specifics with respect to particular transmission paths.

Claim Rejections - 35 USC § 102

20.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

21.   Claims 1-9, 16-20, 22, 36-39, 45, 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Schulze, U.S. Publication No. 2001/0027384. Referring to claim 1, Schulze

discloses a wireless biotelemetry monitoring system wherein a patient wearing a multi-variable

patient monitor (MVPM) can be monitored using the Wireless Internet Bio-telemetry system

(WIBMS). The MVPM has the capability of communicating bi-directionally via voice in the

same manner as a normal cellular telephone ([0045]) using PSTN connections to a host computer

([0045]). The MVPM can communicate voice traffic from the patient over a PSTN channel to a

911 operator ([0048] & [0057]), which meets the limitation of a first communication channel

forming a complete communication path from the customer station to the ACD using a first

communication process. The MVPM comprises a processor (Claim 1) and also provides means

to transmit data traffic over the same channel periodically, in real-time, or by request by the

operator on the other end ([0045], [0047], [0048]), which meets the limitation of a customer data

processor that operates independently of the first communication process configured to handle

two way communication between the customer and the agent of the ACD under a second

communication process that is different than the first communication process. The data

transmitted by the MVPM is physiological data, such as pulse rate, about the patient wearing the

MVPM ([0044] & [0047] & [0049]), which meets the limitation of the customer data processor

configured to store and process customer data manually entered into the customer processor by

the customer. The data transmitted from the MVPM is done so in an encrypted fashion to protect

patient privacy ([0048]), which meets the limitation of a data encryptor operatively coupled to

the customer data processor and configured to encrypt the customer data. The encrypted data can

be transmitted after a request from the operator ([0048]) and in response to an alarm condition

([0050]), which meets the limitation of the customer data processor configured to transmit the

encrypted customer data to the ACD on the first communication channel upon receiving a

predetermined signal. The medical service provider or 911 operator receives the transmitted data

so that the patient's physiological data can be investigated ([0047] & [0057]). Schulze does not

expressly disclose that the encrypted data that is transmitted from the MVPM is decrypted on the

receiving end, however, the purpose of the invention is to monitor the physiological data of the

patient wearing the MVPM. Therefore, decryption capabilities are necessarily present in the

receiving end of the Wireless Internet Bio-telemetry system of Schulze, which would meet the

limitation of a customer data interpreter operatively coupled to the ACD for receiving and

decrypting the encrypted customer data to facilitate presentation of the customer data to the

agent. Schulze discloses that the MVPM sends data on a periodic basis over a cellular network to

the host ([0045]). The cellular network is shown in figure 1 as element 20 ([0046]). This network

is used by the present invention to transmit voice **and** data ([0046] & Figure 1 see elements 14

and 16). Therefore, Schulze is clearly concerned with the transmission of voice and data over the

same communication channel as claimed (Figure 1 shows voice 14 and data 16 transmitted over

the same wireless network 20).

      Referring to claim 2, Schulze discloses that the data transmitted by the MVPM is

physiological data about the patient wearing the MVPM ([0044] & [0047]), which meets the

limitation of the customer data is predetermined data. The MVPM comprises a processor (Claim

1) and also provides means to transmit data traffic over the same channel periodically, in real-

time ([0045], [0047], [0048]), which meets the limitation of the ACD transmits the

predetermined signal to the customer data processor causing the predetermined customer data to

be automatically transmitted to the ACD and presented to the agent.

Referring to claims 3, 4, Schulze discloses that the customer data can be transmitted to

the host/service provider in response to an alarm condition ([0050]), which meets the limitation

of the customer data is sent to the ACD prior to the two way communication between the

customer and the agent, the customer data is automatically transmitted to the agent of the ACD

prior to a voice communication between the customer and the agent.

Referring to claims 5, 6, Schulze discloses that the MVPM can communicate voice data

while continuously communicating the physiological data ([0045]), which meets the limitation of

the customer data is sent to the ACD during the two-way communication between the customer

and the agent, the customer data is sent to the ACD substantially simultaneously with the two

way communication between the customer and the agent.

Referring to claim 7, Schulze discloses that the host initiates a voice call to the MVPM

which triggers the MVPM to establish a data call back to the host ([0057]), which meets the

limitation of the customer data is automatically transmitted to the agent of the ACD after voice

communication between the customer and the agent has terminated.

Referring to claim 8, Schulze discloses that the customer data can be transmitted to the

host/service provider in response to an alarm condition ([0050]), which meets the limitation of

the customer issues the predetermined signal to facilitate automatic transmission of the customer

data to the ACD.

Referring to claim 9, Schulze does not expressly disclose that the information transmitted

from the MVPM includes a patient name or address, but a patient name and address would be

necessarily included in the transmitted information from the MVPM because the purpose of

system is to provide medical monitoring services to a mobile patient. Therefore, it would be

imperative to know who the patient is, and where there are in the event of a medical emergency.

Referring to claim 16, Schulze discloses that the MVPM includes a processor and

wireless communication device (claim 1), which meets the limitation of the customer data

processor includes a computer and a modem configured to facilitate communicate between the

customer and the agent of the ACD.

Referring to claim 17, Schulze discloses that the network is an ISDN network ([0048]),

which is provided over a POTS.

Referring to claim 18, Schulze discloses that the MVPM has buttons that are used to dial

a phone number ([0059]) and that the voice communication network is PSTN, which requires

DTMF tones.

Referring to claims 19, 20, Schulze discloses that the MVPM has mobile telephone

functionality ([0059]).

Referring to claim 22, Schulze discloses a wireless biotelemetry monitoring system

wherein a patient wearing a multi-variable patient monitor (MVPM) can be monitored using the

Wireless Internet Bio-telemetry system (WIBMS). The MVPM has the capability of

communicating bi-directionally via voice in the same manner as a normal cellular telephone

([0045]) using PSTN connections to a host computer ([0045]). The MVPM can communicate

voice traffic from the patient over a PSTN channel to a 911 operator ([0048] & [0057]), which

meets the limitation of a telephonic communication device configured to establish a complete

two way communication channel from the customer station to the ACD under a first

communication process. The MVPM comprises a processor (Claim 1) and also provides means

to transmit data traffic over the same channel periodically, in real-time, or by request by the

operator on the other end ([0045], [0047], [0048]), which meets the limitation of a customer data

processor means operatively coupled to the telephonic communication device, independently of

the first communication process configured to handle two way communication between the

customer and the agent of the ACD over the two way communication channel under a second

communication process that is different than the first communication process. The data

transmitted by the MVPM is physiological data, such as pulse rate, about the patient wearing the

MVPM ([0044] & [0047] & [0049]), which meets the limitation of the customer data processor

configured to store and process customer data manually entered by the customer. The data

transmitted from the MVPM is done so in an encrypted fashion to protect patient privacy

([0048]), which meets the limitation of a data encryptor operatively coupled to the customer data

processor and configured to encrypt the customer data. The encrypted data can be transmitted

after a request from the operator ([0048]) and in response to an alarm condition ([0050]), which

meets the limitation of the customer data processor configured to transmit the encrypted

customer data to the ACD upon receiving a predetermined signal. The medical service provider

or 911 operator receives the transmitted data so that the patient's physiological data can be

investigated ([0047] & [0057]). Schulze does not expressly disclose that the encrypted data that

is transmitted from the MVPM is decrypted on the receiving end, however, the purpose of the

invention is to monitor the physiological data of the patient wearing the MVPM. Therefore,

decryption capabilities are necessarily present in the receiving end of the Wireless Internet Bio-

telemetry system of Schulze, which would meet the limitation of a customer data interpreter

operatively coupled to the ACD for receiving and decrypting the encrypted customer data to

facilitate presentation of the customer data to the agent.

Referring to claim 36, Schulze discloses a wireless biotelemetry monitoring system

wherein a patient wearing a multi-variable patient monitor (MVPM) can be monitored using the

Wireless Internet Bio-telemetry system (WIBMS). The MVPM has the capability of

communicating bi-directionally via voice in the same manner as a normal cellular telephone

([0045]) using PSTN connections to a host computer ([0045]). The MVPM can communicate

voice traffic from the patient over a PSTN channel to a 911 operator ([0048] & [0057]), which

meets the limitation of a communication means configured to establish a complete two way

communication channel from the customer station to the ACD under a first communication

process. The MVPM comprises a processor (Claim 1) and also provides means to transmit data

traffic over the same channel periodically, in real-time, or by request by the operator on the other

end ([0045], [0047], [0048]), which meets the limitation of a customer processing means that

operates independently of the first communication process that is configured to handle two way

communication between the customer and the agent of the ACD under a second communication

process that is different than the first communication process, configured to transmit the

encrypted customer data to the ACD over the two-way communication channel under a second

communication process that is different than the first communication process upon receiving a

predetermined signal. The data transmitted by the MVPM is physiological data, such as pulse

rate, about the patient wearing the MVPM ([0044] & [0047] &[0049]), which meets the

limitation of the customer data processor configured to store and process customer data manually

entered by the customer. The data transmitted from the MVPM is done so in an encrypted

fashion to protect patient privacy ([0048]), which meets the limitation of means for encrypting operatively coupled to the customer processing means and configured to encrypt the customer data. The encrypted data can be transmitted after a request from the operator ([0048]) and in response to an alarm condition ([0050]), which meets the limitation of the customer data processor configured to transmit the encrypted customer data to the ACD upon receiving a predetermined signal. The medical service provider or 911 operator receives the transmitted data so that the patient's physiological data can be investigated ([0047] & [0057]). Schulze does not expressly disclose that the encrypted data that is transmitted from the MVPM is decrypted on the receiving end, however, the purpose of the invention is to monitor the physiological data of the patient wearing the MVPM. Therefore, decryption capabilities are necessarily present in the receiving end of the Wireless Internet Bio-telemetry system of Schulze, which would meet the limitation of a customer data interpreter operatively coupled to the ACD for receiving and decrypting the encrypted customer data to facilitate presentation of the customer data to the agent.

Referring to claim 37, Schulze discloses that the host initiates a voice call to the MVPM which triggers the MVPM to establish a data call back to the host ([0057]), which meets the limitation of the ACD transmits the predetermined signal to the customer data processor causing the customer data to be automatically transmitted to the ACD and presented to the agent.

Referring to claim 38, Schulze discloses that the customer data can be transmitted to the host/service provider in response to an alarm condition ([0050]), which meets the limitation of the customer issues the predetermined signal to facilitate automatic transmission of the customer data to the ACD.

Referring to claim 39, Schulze does not expressly disclose that the information

transmitted from the MVPM includes a patient name or address, but a patient name and address

would be necessarily included in the transmitted information from the MVPM because the

purpose of system is to provide medical monitoring services to a mobile patient. Therefore, it

would be imperative to know who the patient is, and where there are in the event of a medical

emergency.

Referring to claim 45, Schulze discloses that the MVPM has mobile telephone

functionality ([0059]).

Referring to claim 46, Schulze discloses that the network is an ISDN network ([0048]),

which is provided over a POTS.

Claim Rejections - 35 USC § 103

22.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

23.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness
        or nonobviousness.

24.   Claims 13-15, 21, 23-28, 32-35, 42-44 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Schulze, U.S. Publication No. 2001/0027384, in view of Schuster, U.S. Patent

No. 6,857,072. Referring to claims 13-15, 42-44, Schulze discloses that public network used for

communication can be a cable modem connection ([0048]) but does not expressly disclose VOIP

protocol. It would have been obvious to one of ordinary skill in the art at the time the invention

was made for the data network of Schulze to be a VOIP network because the data network of

Schulze is a data network that transmits voice packets which is VOIP network as described in

Schuster (Col. 5, lines 5-9).

        Referring to claim 21, Schulze discloses that the MVPM has mobile telephone

functionality ([0059]), but does not disclose that the MVPM is a PDA. It would have been

obvious to one of ordinary skill in the art at the time the invention was made for the MVPM of

Schulze to be a PDA because the PDA as described in Schuster (Col. 5, lines 50-64) contains all

the desired functionality of the desired implementation of Schulze in one device with a user

friendly interface (See Schuster Col. 5, lines 50-64 & Figure 13).

        Referring to claim 23, Schulze discloses a wireless biotelemetry monitoring system

wherein a patient wearing a multi-variable patient monitor (MVPM) can be monitored using the

Wireless Internet Bio-telemetry system (WIBMS). The MVPM has the capability of

communicating bi-directionally via voice in the same manner as a normal cellular telephone

([0045]) using PSTN connections to a host computer ([0045]). The MVPM can communicate

voice traffic from the patient over a PSTN channel to a 911 operator ([0048] & [0057]), which

meets the limitation of a telephonic communication device adapted to establish a complete

communication channel between the customer and the agent of the ACD under a first

communication process. The MVPM comprises a processor (Claim 1) and also provides means

to transmit data traffic over the same channel periodically, in real-time, or by request by the

operator on the other end ([0045], [0047], [0048]), which meets the limitation of a customer data

processor operatively coupled to the telephonic communication device for storing and processing

customer data provided by the customer, operates independently of the first communication

process configured to handle two way communication between the customer and the agent of the

ACD over the two way communication channel under a second communication process that is

different than the first communication process. The data transmitted by the MVPM is

physiological data about the patient wearing the MVPM ([0044] & [0047]), which meets the

limitation of the customer data processor configured to store and process customer data provided

by the customer. The data transmitted from the MVPM is done so in an encrypted fashion to

protect patient privacy ([0048]), which meets the limitation of a data encryptor operatively

coupled to the customer data processor and configured to encrypt the customer data. The

encrypted data can be transmitted after a request from the operator ([0048]) and in response to an

alarm condition ([0050]), which meets the limitation of the customer data processor configured

to transmit the encrypted customer data to the ACD upon receiving a predetermined signal. The

medical service provider or 911 operator receives the transmitted data so that the patient's

physiological data can be investigated ([0047] & [0057]). Schulze does not expressly disclose

that the encrypted data that is transmitted from the MVPM is decrypted on the receiving end,

however, the purpose of the invention is to monitor the physiological data of the patient wearing

the MVPM. Therefore, decryption capabilities are necessarily present in the receiving end of the

Wireless Internet Bio-telemetry system of Schulze, which would meet the limitation of a

customer data interpreter operatively coupled to the ACD for receiving and decrypting the

encrypted customer data to facilitate presentation of the customer data to the agent. Schulze

discloses that public network used for communication can be a cable modem connection ([0048])

but does not expressly disclose VOIP protocol. It would have been obvious to one of ordinary

skill in the art at the time the invention was made for the data network of Schulze to be a VOIP

network because the data network of Schulze is a data network that transmits voice packets

which is VOIP network as described in Schuster (Col. 5, lines 5-9).

Referring to claim 24, Schulze discloses a wireless biotelemetry monitoring system

wherein a patient wearing a multi-variable patient monitor (MVPM) can be monitored using the

Wireless Internet Bio-telemetry system (WIBMS). The MVPM has the capability of

communicating bi-directionally via voice in the same manner as a normal cellular telephone

([0045]) using PSTN connections to a host computer ([0045]). The MVPM can communicate

voice traffic from the patient over a PSTN channel to a 911 operator ([0048] & [0057]), which

meets the limitation of a communication device adapted to establish a complete communication

channel from the customer station to the agent of the ACD under a first communication process.

The MVPM comprises a processor (Claim 1) and also provides means to transmit data traffic

over the same channel periodically, in real-time, or by request by the operator on the other end

([0045], [0047], [0048]), which meets the limitation of storing customer data provided by

customer, in a customer data processor of the telephonic communication device, the customer

data processor operatively coupled to the telephonic communication device, independently

transmitting the customer data to the ACT over the communication channel under a second

communication process that is different then the first communication process. The data

transmitted by the MVPM is physiological data about the patient wearing the MVPM ([0044] &

[0047]). The data transmitted from the MVPM is done so in an encrypted fashion to protect

patient privacy ([0048]), which meets the limitation of a data encryptor operatively coupled to

the customer data processor and configured to encrypt the customer data. The encrypted data can

be transmitted after a request from the operator ([0048]) and in response to an alarm condition

([0050]), which meets the limitation of the customer data processor configured to transmit the

encrypted customer data to the ACD upon receiving a predetermined signal. The medical service

provider or 911 operator receives the transmitted data so that the patient's physiological data can

be investigated ([0047] & [0057]). Schulze does not expressly disclose that the encrypted data

that is transmitted from the MVPM is decrypted on the receiving end, however, the purpose of

the invention is to monitor the physiological data of the patient wearing the MVPM. Therefore,

decryption capabilities are necessarily present in the receiving end of the Wireless Internet Bio-

telemetry system of Schulze, which would meet the limitation of a customer data interpreter

operatively coupled to the ACD for receiving and decrypting the encrypted customer data to

facilitate presentation of the customer data to the agent. Schulze discloses that public network

used for communication can be a cable modem connection ([0048]) but does not expressly

disclose VOIP protocol. It would have been obvious to one of ordinary skill in the art at the time

the invention was made for the data network of Schulze to be a VOIP network because the data

network of Schulze is a data network that transmits voice packets which is VOIP network as

described in Schuster (Col. 5, lines 5-9).

Referring to claim 25, Schulze discloses that the host initiates a voice call to the MVPM

which triggers the MVPM to establish a data call back to the host ([0057]), which meets the

limitation of the ACD transmits the predetermined signal to the customer data processor causing

the customer data to be automatically transmitted to the ACD and presented to the agent.

Referring to claim 26, Schulze discloses that the customer data can be transmitted to the

host/service provider in response to an alarm condition ([0050]), which meets the limitation of

the customer data is automatically transmitted to the agent of the ACD prior to a voice

communication between the customer and the agent.

Referring to claim 27, Schulze discloses that the customer data can be transmitted to the

host/service provider in response to an alarm condition ([0050]), which meets the limitation of

the customer issues the predetermined signal to facilitate automatic transmission of the customer

data to the ACD.

Referring to claim 28, Schulze does not expressly disclose that the information

transmitted from the MVPM includes a patient name or address, but a patient name and address

would be necessarily included in the transmitted information from the MVPM because the

purpose of system is to provide medical monitoring services to a mobile patient. Therefore, it

would be imperative to know who the patient is, and where there are in the event of a medical

emergency.

Referring to claim 32, Schulze discloses that the network is an ISDN network ([0048]),

which is provided over a POTS.

Referring to claim 33, Schulze discloses that the MVPM has buttons that are used to dial

a phone number ([0059]) and that the voice communication network is PSTN, which requires

DTMF tones.

Referring to claim 34, Schulze discloses that the MVPM has mobile telephone functionality ([0059]).

Referring to claim 35, Schulze discloses that the MVPM has mobile telephone functionality ([0059]), but does not disclose that the MVPM is a PDA. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the MVPM of Schulze to be a PDA because the PDA as described in Schuster (Col. 5, lines 50-64) contains all the desired functionality of the desired implementation of Schulze in one device with a user friendly interface (See Schuster Col. 5, lines 50-64 & Figure 13).

25.   Claims 10-12, 29-31, 40, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulze, U.S. Publication No. 2001/0027384, in view of Creswell, U.S. Patent No. 6,823,318. Referring to claims 10-12, 29-31, 40, 41, Schulze discloses that the encrypted data can be transmitted after a request from the operator ([0048]) and in response to an alarm condition ([0050]). The medical service provider or 911 operator receives the transmitted data so that the patient's physiological data can be investigated ([0047] & [0057]). Schulze does not disclose that the medical service provider has a specific vendor identification code. Creswell discloses a secure purchasing system wherein a purchaser receives the identity of a vendor when attempting to purchase a specific item (Col. 3, lines 24-56). The purchaser information that is transmitted to the vendor server is determined by the security association with the purchaser and that vendor server (Col. 4, line 7 – Col. 5, line 20), which meets the limitation of a vendor identification code transmitted to the customer data processor, the vendor identification code identifying a specific vendor associated with the communication between the customer and the agent, the customer data processor assigns one of a plurality of security levels to the vendor

identification code, all of the customer data is transmitted to the agent if the vendor identification

code is assigned the first security level, a portion of the customer data is transmitted to the agent

if the vendor identification code is assigned the second security level, and non of the customer

data is transmitted to the agent if the vendor identification code is assigned the third security

level. It would have been obvious to one of ordinary skill in the art at the time the invention was

made to determine what client information in Schulze, the client decided to transmit based on the

specific medical service provider in order to avoid having the user's personal information

available to unauthorized individuals as taught in Creswell (Col. 1, lines 24-26).

Conclusion

26.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this
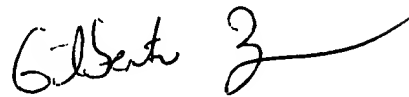
final action.

27.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Benjamin E. Lanier whose telephone number is 571-272-3805.

The examiner can normally be reached on M-Th 6:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin E. Lanier

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